## DETAILED ACTION

### *Summary*

Receipt of Applicant's response and claim amendments filed on 12/06/10 is acknowledged. Claims 2-44 are pending.

### *Rejoinder*

Claims 2-5, 13 and 44 are allowable. Claims 6-12 and 14-43, previously withdrawn from consideration as a result of a restriction requirement, contain all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement between inventions I-XIII, as set forth in the Office action mailed on 08/07/08, is hereby withdrawn** and claims 6-12 and 14-43 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### Examiner's Amendment

Authorization for this examiner's amendment was given in a telephone interview with Alain Leclerc on 05/15/11.

6. (currently amended) The microporous biodegradable polymeric article according to claim 13, wherein the porosity is fully continuous.

7. (currently amended) The microporous biodegradable polymeric article according to claim 13, wherein the article has a symmetric morphology.

8. (currently amended) The microporous biodegradable polymeric article according to claim 13, wherein the article has an asymmetric morphology.

10. (currently amended) The microporous biodegradable polymeric article according to claim 13, wherein at least 95% of said article is made of a biodegradable medical polymer selected from the group consisting of poly(lactic acid), poly(glycolic acid), poly(lactic-co- glycolic), polyorthoesters, polycaprolactones, polyanhydrides and their copolymers.

11. (currently amended) The microporous biodegradable polymeric article according to claim 13, wherein at least 99% of said article is made of a biodegradable medical polymer selected from the group consisting of poly(lactic acid), poly(glycolic acid), poly(lactic-co- glycolic), polyorthoesters, polycaprolactones, polyanhydrides and their copolymers.

12. (currently amended) The microporous biodegradable polymeric article according to claim 13, wherein said article is essentially made of a biocompatible, implantable polymer.

38. (currently amended) The [use of a] microporous biodegradable article obtained by the method according to any of claims 14-36[ in], wherein said microporous biodegradable article is tissue engineering article.

40. (currently amended) The [use of a] microporous biodegradable article obtained by the method according to any of claims 14-36[ as], wherein said microporous biodegradable article is a substrate for controlled release applications.

42. (currently amended) The [use of a] microporous biodegradable article obtained by the method according to any of claims 14-36[ as] , wherein said microporous biodegradable article is an implantable medical device.

**Reasons for allowance**

The following is an examiner's statement of reasons for allowance:

Applicant's claim amendments and corresponding arguments are persuasive in the response of 12/16/10. The prior art of record teaches pore diameters 20-150microns or 0.5-50microns, etc which is a much broader than the 'unimodal distribution" instant claimed prepared via the specific inventive method claimed, 'wherein a majority of pores have a diameter d of at least dv-50% and at most dv+50%'. For example, in Fig. 15 the instant invention unimodal distribution means that most of the pores at 14microns and -50% is 7microns and +50% is 21microns and as such this is a very narrow distribution and the originally filed drawings/spec show that for various polymers and blends (PS, PLLA, PCL/PS, PLLA/PS, etc) that the can vary the particle

size and unimodal distribution from 1micron (i.e. so a distribution of 0.5-1.5microns for +/-50%), 1.3microns, 2.3microns, etc.

Therefore the claims are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

## *Conclusion*

Claims 2-44 are allowed.

## *Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany P. Barham whose telephone number is 571-272-6175. The examiner can normally be reached on M-F from 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Wax, can be reached on 571-272-0623. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/Bethany Barham/
Examiner, Art Unit 1615

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